

UNITED STATES DISTRICT COURT  
WESTERN DISTRICT OF WASHINGTON  
AT SEATTLE

NXP USA, INC., and NXP B.V.,

Plaintiffs,

v.

IMPINJ, INC.,

Defendant.

CASE NO. 2:20-cv-01503-JHC

ORDER SUSTAINING IMPINJ'S  
OBJECTION TO CERTAIN TESTIMONY  
OF DAVID HAAS

On June 16, 2023, NXP's expert witness David Haas testified. After some cross-examination, outside the presence of the jury, Impinj objected to certain testimony by Haas. Impinj objected to Haas's testimony about the basis for his apportionment of 25% of value to read sensitivity improvements. According to Impinj, Haas's expert report provides only one basis for his 25% figure: *Kindler's* 25% figure in the co-pending California litigation. *See* Dkt. # 287-2 at 95. Based on Rule 26, Impinj asks the Court (1) to strike any testimony in which Haas purports to rely on any other source besides Kindler for his quantitative apportionment figure of 25%, and (2) that the Court provide an appropriate jury instruction.

The Court SUSTAINS the objection. In his report, Haas explains that he borrowed Kindler's 25% figure "as a proxy." Dkt. # 287-2 at 95. He provides no other explanation for his

1 quantitative 25% figure. Any testimony to the contrary strays beyond his expert report and  
2 violates Rule 26.

3 The parties shall meet and confer about an appropriate jury instruction. If the parties  
4 cannot agree, they may submit their proposed instructions for the Court's consideration. The  
5 parties should submit the proposed instruction(s) in a single document to be filed on the docket.

6 Dated this 16th day of June, 2023.

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9 John H. Chun  
10 United States District Judge  
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